No. 25

In the Supreme Court of the United States

OCTOBER TERM, 1954

UNITED STATES OF AMERICA, PETITIONER,

v.

EDWARD B. CALDERON

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF FOR THE UNITED STATES

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OPINION BELOW

The District Court rendered no opinion. The opinion of the Court of Appeals (R. 218–219) is reported at 207 F. 2d 377.

JURISDICTION

The judgment of the Court of Appeals was entered on October 9, 1953. (R. 220.) A petition for rehearing, filed on November 22, 1953, was denied on December 8, 1953 (R. 220). On January 5, 1954, the time for filing a petition for a writ of certiorari was extended by Mr. Justice Douglas to February 6, 1954. (R. 222.) The petition was filed on February 4, 1954, and was

granted on June 7, 1954. (R. 223.) The jurisdiction of this Court rests on 28 U. S. C., Section 1254.

QUESTION PRESENTED

Whether, in a tax evasion prosecution based on proof of unexplained increases in net worth, the defendant's admission as to the amount of cash on hand at the starting point must be corroborated by independent evidence of this fact.

STATUTE INVOLVED

Internal Revenue Code:

SEC. 145. PENALTIES.

* * * * *

(b) Failure to Collect and Pay Over Tax, or Attempt to Defeat or Evade Tax.—Any person required under this chapter to collect, account for, and pay over any tax imposed by this chapter, who wilfully fails to collect or truthfully account for and pay over such tax, and any person who wilfully attempts in any manner to evade or defeat any tax imposed by this chapter or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

* * * * *

(26 U. S. C. Sec. 145.)

STATEMENT

On October 29, 1951, a four-count indictment was filed against respondent, a resident of Douglas, Arizona, in the United States District Court for the District of Arizona charging him with willful attempts to evade and defeat his own and his wife's income taxes for the years 1946 through 1949, by filing returns in which he fraudulently understated the amounts of their income, in violation of Section 145 (b) of the Internal Revenue Code. (R. 3–6.) The amounts of net income and the taxes due thereon, as reported in the returns and as corrected, were alleged to be as follows:

	Reported		Corrected	
	Income	Tax	Income	Tax
Count I (1946)	$3,836.68	$0.00	$24,855.49	$7,352.12
Count II (1947)	3,663.93	9.00	11,056.82	1,450.70
Count III (1948)	3,590.73	0.00	6,874.43	230.24
Count IV (1949)	5,683.80	0.00	20,206.73	2,830.56

After a trial by jury, respondent was found guilty as charged (R. 13–14), and on November 10, 1952, he was fined a total of $10,000 on the first and fourth counts. Imposition of sentence on the second and third counts was suspended, and respondent was placed on probation for three years. (R. 15–17.) The judgment was reversed on appeal on the ground that the Government, in undertaking to prove respondent's guilt by showing large increases in his net worth which, with non-deductible expenditures, exceeded

his reported income, had proved the item of cash on hand in the initial net-worth computation only by respondent's own admission, without other, independent evidence of this item. (R. 218–219.)

At the trial, the Government presented proof of understatements of income by showing increases in respondent's net worth plus non-deductible expenditures which far exceeded his reported income. It was stipulated that a revenue agent might testify as to the amount of respondent's assets, liabilities, and non-deductible expenditures during the years involved without producing supporting records, but an exception was made as to the amounts of cash he had on hand or in banks. (R. 8–9, 28–29, 54–55.) The amount of cash in banks was proved by the production of bank records. (R. 34–49.) Thus, the only real question as to the accuracy of the Government's computation concerned the amount of cash on hand. (R. 218.) The Government contended that respondent had only about $500 cash on hand as of December 31, 1945. (R. 85–86.) The evidence to support this conclusion may be summarized as follows:

Prior to the Investigation.—Respondent left high school in 1926 and worked as a fry cook and dishwasher until some time in 1939. (R. 136, 153-156.) What small savings he had accumulated were used up in the depression years (R. 159), and during the period from 1933 to 1935

he worked for approximately eight dollars a week (R. 153–155).

In 1935 he made a loan of seven dollars to an acquaintance, taking as security a small penny vending machine which he placed in operation in his employer's restaurant.[1] (R. 154–155.) Thereafter, he gradually acquired a number of slot machines, pinball machines, and automatic music boxes, to the operation and care of which he finally began to devote his full time in 1939. (R. 155–157.) He had no central place of business until 1943 when he obtained space at the rear of a confectionery store in order to repair his machines. (R. 135, 159.) By that time he had over fifteen slot machines, about thirty-four music machines, and twenty or thirty pinball machines. (R. 161–162, 180.) From 1942 through 1945, the business was very good because there was an air base and a smelter in the area, but respondent was unable to buy much new equipment because of the wartime scarcity of such machines. (R. 46–47, 161–163.) He did, however, buy several thousand dollars worth of equipment; he put $4,000 into his savings account; and he invested about $15,000 in bonds, land and buildings. (Ex. B; R. 84–85, 195.) In 1945 he also began to operate a restaurant, the Coronado Cafe. (Exs. 10, 12, 13; R. 44–45, 184, 186.)

[1] Respondent had to borrow this seven dollars from his employer in order to make the loan. (R. 154.)

Respondent's income tax returns for 1944 and 1945 contained the following information (Exs. 12 and 13; R. 183–186):[2]

	Receipts from machines	Net profits from machines	Net income from all sources
1944	$9,266.83	$2,356.24	$4,162.50
1945	10,302.46	4,143.94	7,328.56

His net worth as of December 31, 1945, exclusive of the amount of cash he may have had on hand, was $25,555.06. (Ex. B, Appendix, *infra*, p. 41; R. 61–64, 195).[3]

In 1946 and the early part of 1947 respondent spent $16,000 or $17,000 for the purchase of new coin-operated machines. (R. 164–165, 181, 193.) He steadily acquired new machines during the period from 1945 through 1949, as is shown by the cost value of the machines he owned at the end of these years (R. 63–71):

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[2] For 1941 respondent filed a nontaxable return. For 1942 he paid an income tax of $300.92, and for 1943, $189.87. (Ex. A; R. 81.)

[3] The exhibits, not printed in the Transcript of Record, are lodged with the Clerk of the Court. Exhibit B, a statement signed under oath by respondent and introduced at the trial by him (R. 195), shows his net worth at the end of each of the years 1943 through 1949. This important and comprehensive document is printed as an Appendix to this brief, *infra*, p. 41. Some trivial adjustments in the computations shown by this exhibit, having no material bearing on the issues in the case, were made by the testimony of the Government's revenue agents at the trial. (R. 72–78, 99–104, 111–119.)

1945	$8,071.00
1946	24,055.63
1947	31,945.95
1948	40,224.10
1949	45,626.44

From October 1945 through 1949, respondent made frequent deposits in his savings account in amounts ranging from $1,000 to $2,500. The regularity of these deposits, most of which were in currency, became more marked in the later years of this period. (Exs. 7, 8; R. 41–43.) Respondent also made frequent and regular deposits of sums ranging up to $2,000 in his checking account. (Exs. 9, 10; R. 43–44.)

The proved increases in respondent's net worth, again without consideration of the amount of cash he may have had on hand, are shown by the following year-end totals (R. 63–74):

	Net worth	Increase
12/31/45	$25,555.06	
12/31/46	46,812.55	$21,257.49
12/31/47	54,186.42	7,373.87
12/31/48	57,869.09	3,682.67
12/31/49	72,443.95	14,574.86

In addition, respondent had non-deductible expenditures of approximately $3,500 during each of the years involved in the indictment. (R. 64–71.)

However, despite the fact that during 1946, 1947, 1948, and 1949 he invested over $37,000 in new machines, increased his net worth over

$45,000, and had approximately $14,000 in non-deductible expenditures, he reported a total net income of less than $17,000 and reported losses from his coin machine operations in three of the years. His income tax returns for these years reported as net income from all sources the following: for 1946, $3,836.68; for 1947, $3,663.93; for 1948, $3,590.73; for 1949, $5,683.80. (Exs. 1, 2, 3, 4; R. 31–33.)

Eugene Verdugo, who kept respondent's books and made out his returns, received all his information as to receipts from respondent himself. (R. 127–129, 135.) Respondent's records were very fragmentary, and Verdugo felt that some of the receipts were not being entered in the books. (R. 137.) Eventually, he began numbering the receipt books for the coin machines after respondent told him that some of them were probably being lost before they reached Verdugo for recording. (R. 130–131.) Loss of one of these books would mean a difference of $1,000 or $1,500 in the annual total of receipts. (R. 132.) When preparing the 1948 return Verdugo advised respondent to get out of the vending machine business since the return indicated that he was losing money. (R. 129–130.)

The Investigation.—The investigation was initiated in 1950 with a request, complied with by respondent, that he turn over some of his invoices and records. (R. 172–173.) Thereafter, the agents began to examine his bank accounts.

(R. 114.) Ultimately they studied all such records as they could find or were made available to them by respondent (R. 52)—invoices, cancelled checks, income tax returns and Verdugo's working papers, records of various coin machine manufacturing companies, automobile records, county land transfer records and deeds (R. 65–68). The investigation went back several years beyond the period later covered by the indictment. (R. 61, 82–85.) Since it appeared to the agents that respondent's books did not record all the receipts from the coin machines (R. 89), they prepared a statement showing the annual increases in his net worth from December 31, 1943, to December 31, 1949, the results of which are partly shown in the table at p. 7, *supra*. (Ex. B; R. 61–71, 195.)

During the course of the investigation the agents had four or more conversations with respondent. (R. 90, 175.) On June 9, 1950, shortly after the investigation had begun, he appeared at the revenue office and said with some show of agitation that he believed he had lost some of his receipt books or had failed to turn them over to his bookkeeper. (R. 114, 126.) On June 18, 1950, there was a conference at which respondent, in addition to giving considerable other information about his assets and expenditures, stated that to the best of his recollection and belief he had about $500 on hand at the end of each year, with the exception of 1949 when

he must have had $1,971.50 since he made a deposit of that amount on January 4, 1950. (R. 56–57, 59–60, 67–68, 80–82.) The subject of cash on hand was discussed at some length. (R. 85–86.)

On August 2, 1950, the agents showed respondent and Verdugo the net-worth statement they had prepared and spent most of the day discussing and checking it with him. (R. 87–88, 106, 123–125.) The item of cash on hand was based on respondent's previous admission. (Ex. B; R. 63, 65, 68, 69, 70, 195.) He finally signed the net-worth statement. (R. 87, 195.) At the same time he signed a further statement in which he admitted that he had underreported his income during the years from 1944 through 1949 by deliberately omitting to record some of the coin machine money in the receipt books which he turned over to Verdugo. (Ex. 11; R. 106–110.) He made a similar admission as to the omitted receipts to Verdugo during the investigation. (R. 131–132.)

The net-worth computation.—The unreported income for the years involved, as demonstrated by the agents' net-worth computation, appears from the following table (Ex. B; R. 61–71, 99–104, 195):

	Reported	Corrected	Unreported
1946	$3,836.68	$24,855.49	$21,018.81
1947	3,663.93	11,056.82	7,392.89
1948	3,590.73	6,874.43	3,283.70
1949	5,683.80	20,206.73	14,522.93

Respondent had paid no income taxes in any of these years. (R. 72.) Upon his corrected income, as computed from the net-worth statement, he should have paid the following amounts (R. 99–104):

1946	$7,352.12
1947	1,450.70
1948	230.24
1949	2,645.78

Respondent's testimony.—Respondent testified that beginning in 1939 he gradually built up a reserve of cash which he kept in a safe, and that by December 31, 1945, this amounted to $16,000 or $17,000. (R. 164, 181–182.) He used this money to buy new coin machines in 1946 and the early part of 1947, and then began to build up his cash reserve again so that he had $3,000 or $4,000 by the end of 1949. (R. 164–165.)

He stated that the agents had never asked him during the course of the investigation how much money he kept in his safe or how much he carried in his pocket. (R. 176.) He admitted he had spent a day going over the items in the net-worth statement with the agents, but claimed that he did not understand what they were talking about. (R. 176–177, 187, 191.) He had relied completely upon Verdugo to keep his books and prepare his returns, and had given him full information as to all his receipts. (R. 159–161, 165–166, 177, 185.) He gave a considerably different version of the conver-

sations to which Verdugo had testified. (Compare pp. 8, 10, *supra*, with R. 166–171, 177–179, 191–192.)

On cross-examination he was vague about the exact amount of cash in his safe at the end of 1945 (R. 181–182, 197–198), and he admitted that at a previous trial he had testified that the amount was "from two—maybe eight or nine thousand dollars, I imagine." (R. 193–194.)

SUMMARY OF ARGUMENT

In holding that respondent's admission that he had $500 in cash on hand at the starting-point could only be sufficiently corroborated by independent evidence of the same fact, the court below engrafted upon the corroboration rule an extension justified neither by precedent nor by the rule's reason. The court appears to have been led into this error by the mistaken conclusion that, without the item of cash on hand, the rest of the Government's detailed evidence, the competency and adequacy of which is not disputed, "proves nothing." Actually, this other evidence, which may well have been sufficient in itself to establish respondent's guilt, was at least ample proof of the corpus delicti to corroborate the admission as to cash on hand.

I

There is no dispute here over the settled rule that confessions must be corroborated. Nor is there any occasion now to oppose application of

the corroboration requirement to admissions, though the propriety of this application is at least seriously questionable. The narrower problem in this case concerns the nature of the "corroboration" required for a confession or admission.

The general rule is that a confession must be corroborated by independent evidence of the corpus delicti—*i. e.*, evidence that the alleged offense has been committed by someone. *Daeche* v. *United States*, 250 Fed. 566, 571 (C. A. 2). This evidence *aliunde* need not be sufficient in itself to establish the corpus delicti beyond a reasonable doubt, or even by a preponderance of proof. It is enough that such evidence is presented and that it, together with the confession, satisfies the requirement of proof beyond a reasonable doubt.

It has never been suggested that the corroboration requirement should be more severe for an admission than it is for a confession. But in requiring independent evidence of the specific fact established by respondent's admission, the court below reaches precisely that result. For this specific fact—the amount of cash respondent had on hand at the starting-point—is obviously not in itself an element of the corpus delicti of attempted tax evasion. The elements of this corpus delicti are (1) a failure to report taxable income and (2) willful intent to evade tax. Cash on hand at the starting-point is relevant in prov-

ing the first of these elements in that it is an item of the defendant's net worth at the outset, with which his net worth at subsequent dates is to be compared. The important fact remains, however, that this item alone is not sufficient or uniformly necessary to prove that the offense has been committed—*i. e.*, to prove the corpus delicti. And what the court below wholly overlooked was that the Government's independent evidence, excluding cash on hand, at least tended strongly to establish the corpus delicti. See Point II, *infra*.

The corroboration rule, in denying that independent evidence must establish the corpus delicti beyond a reasonable doubt or by a preponderance of proof, plainly contemplates that a confession or admission may supply specific facts, not otherwise shown by independent evidence, to sustain the prosecution's burden. It is this which the decision below forbids, rendering an admission usable only to corroborate independent evidence. Cf. *United States* v. *Kertess*, 139 F. 2d 923, 929 (C. A. 2), certiorari denied, 321 U. S. 795. This result, standing the corroboration requirement on its head and substantially eliminating a most reliable means of proof, is erroneous.

II

The court below declared that, leaving out the item of cash on hand at the starting-point established by respondent's admissions, "the remainder of the [net-worth] statement proves nothing."

(R. 218.) The record and the opinion of the court itself demonstrate that this statement could not have been intended literally. Beyond question, the Government's proof was at least substantial evidence of the corpus delicti, and this is all that was required. *Bell* v. *United States*, 185 F. 2d 302 (C. A. 4), certiorari denied, 340 U. S. 930.

Omitting the disputed item of cash on hand, the Government proved large increases in respondent's other assets over the years in question—increases which, with non-deductible expenses, were grossly in excess of the income he had reported for those years. These discrepancies alone were substantial evidence supporting an inference that respondent had had unreported income. See *United States* v. *Johnson*, 319 U. S. 503, 517.

Moreover, the independent evidence made it highly improbable that the large increases in respondent's net worth, otherwise unaccounted for, could be explained by his possession of undiscovered and unrecorded cash at the starting-point on January 1, 1946. (It is, of course, this supposedly possible explanation, refuted by respondent's admission that he had only $500 in cash on hand at the starting-point, which gives rise to the controversy in this case.) The Government showed that respondent had been penniless a decade before the starting-point; that his earnings during that decade had risen from a

meager eight dollars a week in 1935 to a modest $7,300 for the year 1945; and that his proved net worth of over $25,000 on December 31, 1945, was a surprisingly large amount for him to have accumulated over that period. It would have been signally reasonable to infer from this evidence alone that respondent had no such enormous cache of idle cash on hand on December 31, 1945, as could have begun to account for the considerable increases in his visible net worth over the ensuing four years.

And so respondent's admission that he had $500 in cash on hand on December 31, 1945, accords convincingly with what the other facts proved by independent evidence would have led one to infer. Thus, the independent evidence supplies persuasive corroboration in terms of the kind of commonsense judgment juries and triers of fact generally are expected to exercise. To put the matter technically, the independent proof of the corpus delicti amply corroborated respondent's admission in the only sense in which corroboration is required in such circumstances.

ARGUMENT

In a taxing system which continues to rely for collection "largely upon the taxpayer's own disclosures" (*Spies* v. *United States*, 317 U. S. 492, 495), attempts to evade taxes are inevitably characterized by concealment and distortion. And so it frequently happens in tax evasion cases that direct proof of income-producing transactions is

impossible. See *United States* v. *Johnson*, 319 U. S. 503, 517. Where this has been true, the Government has customarily proved the crime, as it undertook to do in this case, by showing an increase in the defendant's net worth, plus his non-deductible living expenses, during the taxable year, substantially in excess of his reported income plus non-income receipts like gifts and bequests. This net-worth and expenditures method of proof, essentially the same as that sustained by this Court in *United States* v. *Johnson, supra*,[4] has been uniformly upheld by the courts of appeals as an appropriate and necessary means of bringing tax evaders to justice.[5]

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[4] In *Johnson*, the primary emphasis was upon the defendant taxpayer's expenditures, which were shown greatly to exceed his reported income. The net-worth *plus* expenditures method of the instant case includes, in addition to living expenses, a year-end financial picture showing expenditures of a capital nature reflected in increased assets, all of which must be derived either from income, from prior accumulations, or from non-income acquisitions. Whether the major emphasis is upon expenditures or upon year-end accretions to net worth, the demonstration serves in either event to point to receipts during the year which, when non-income sources are excluded, must constitute income.

[5] *Smith* v. *United States*, 210 F. 2d 496 (C. A. 1), certiorari granted, 347 U. S. 1010, No. 52, this Term; *United States* v. *Norris*, 205 F. 2d 828 (C. A. 2); *United States* v. *Vassallo*, 181 F. 2d 1006 (C. A. 3); *United States* v. *Caserta*, 199 F. 2d 907 (C. A. 3); *Bell* v. *United States*, 185 F. 2d 302 (C. A. 4), certiorari denied, 340 U. S. 930; *Dawley* v. *United States*, 186 F. 2d 978 (C. A. 4); *Pollock* v. *United States*, 202 F. 2d 281 (C. A. 5), certiorari denied, 345 U. S. 993; *Sasser* v. *United States*, 208 F. 2d 535 (C. A. 5); *Ford* v. *United States*,

In the present case, the item of $500 in cash on hand at the starting-point of the net-worth computations was proved by respondent's admission to revenue agents investigating his returns. (R. 56–60.) As our Statement shows, and as the court below acknowledged (R. 218), the sufficiency of the proof of all other items in the detailed net-worth statements is beyond question. All this proof, in turn, is reinforced by respondent's confession that he had understated his income and underpaid his tax. (R. 106–110.) The court below held, however, that respondent's conviction must fall for failure of proof, reasoning (1) that without the

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210 F. 2d 313 (C. A. 5); *Brodella* v. *United States*, 184 F. 2d 823 (C. A. 6); *Gariepy* v. *United States*, 189 F. 2d 459 (C. A. 6); *Friedberg* v. *United States*, 207 F. 2d 777 (C. A. 6), certiorari granted, 347 U. S. 1006, No. 18, this Term; *United States* v. *Chapman*, 168 F. 2d 997 (C. A. 7), certiorari denied, 335 U. S. 853; *United States* v. *Potson*, 171 F. 2d 495 (C. A. 7); *United States* v. *Hornstein*, 176 F. 2d 217 (C. A. 7); *United States* v. *Yeoman-Henderson*, 193 F. 2d 867 (C. A. 7); *Schuermann* v. *United States*, 174 F. 2d 397 (C. A. 8), certiorari denied, 338 U. S. 831; *Hanson* v. *United States*, 186 F. 2d 61 (C. A. 8); *Leeby* v. *United States*, 192 F. 2d 331 (C. A. 8); *Mitchell* v. *United States*, 208 F. 2d 854 (C. A. 8), certiorari denied, 347 U. S. 1012; *Barcott* v. *United States*, 169 F. 2d 929 (C. A. 9), certiorari denied, 336 U. S. 912; *Gendelman* v. *United States*, 191 F. 2d 993 (C. A. 9), certiorari denied, 342 U. S. 909; *Davena* v. *United States*, 198 F. 2d 230 (C. A. 9), certiorari denied, 344 U. S. 878; *Remmer* v. *United States*, 205 F. 2d 277 (C. A. 9), vacated and remanded on other grounds, 347 U. S. 227; *Graves* v. *United States*, 191 F. 2d 579 (C. A. 10); *Holland* v. *United States*, 209 F. 2d 516 (C. A. 10), certiorari granted, 347 U. S. 1008, No. 37, this Term; *Hooper* v. *United States*, 213 F. 2d 30 (C. A. 10).

item of cash on hand, the remainder of the net-worth statement "proves nothing"—though the items in it were "stipulated to be correct" with the exception of one item, as to which "there is no question" (R. 218), and (2) that respondent's extra-judicial admission could not serve to prove the item of cash on hand because there was no "independent proof of the corpus delicti." (R. 219.)

This reasoning, we submit, misconceives both the rule requiring that confessions and admissions be corroborated and the character of the unquestioned proof in this case. The court erred in assuming that an admission like the one involved here—relating to a specific, subsidiary fact and serving in itself neither to confess guilt nor even to establish an element of the corpus delicti—can be adequately corroborated only by independent evidence of the same specific fact. As we understand its opinion, the court held that, without independent evidence that respondent had $500 in cash on hand at the starting-point, respondent's admission of this fact could not be used against him. We shall show that the corroboration rule, granting for present purposes its applicability to admissions (as distinguished from confessions) and accepting any of its various formulations, imposes no such restriction.

We shall argue further that a closely interrelated error of the court below is its statement that the evidence apart from respondent's admission as to cash on hand "proves nothing."

Actually, this evidence, constituting the bulk of the Government's proof, was probably sufficient in itself to make out a case for the jury. But whether this is so or not is unimportant here. What matters is that the independent evidence, so briefly dismissed by the court below, at the very least tended strongly to establish the corpus delicti. On any theory of the corroboration rule except the untenable view that the independent evidence must prove the specific fact to be shown by an admission, this evidence authorized the jury's receipt of and reliance upon respondent's admission as to cash on hand.

I

SINCE THE CORROBORATION RULE AT MOST REQUIRES INDEPENDENT EVIDENCE OF THE CORPUS DELICTI, THERE WAS NO NEED FOR INDEPENDENT EVIDENCE OF RESPONDENT'S CASH ON HAND, WHICH WAS NOT AN ELEMENT OF THE CORPUS DELICTI

1. Though it has been deprecated by eminent critics (see, *e. g.*, L. Hand, J., in *Daeche* v. *United States*, 250 Fed. 566, 571 (C. A. 2); 7 Wigmore, *Evidence* (3d ed.), p. 395), the rule precluding conviction based upon an uncorroborated confession alone has found widespread acceptance in the federal courts as well as in most state courts. See *Warszower* v. *United States*, 312 U. S. 342, 345; *Daeche* v. *United States*, *supra*,

at 571; 127 A. L. R. 1130.[8] The requirement that a confession be corroborated has been justified on the ground that it "protects the administration of the criminal law against errors in convictions based upon untrue confessions alone." *Warszower* v. *United States, supra,* at 347. Whatever merit there might be in a contrary view as an original proposition, the requirement can readily be accepted for present purposes as being firmly embedded in our law. There is no occasion to dispute it here.

An even more debatable problem is presented when the corroboration requirement is extended to *admissions,* as distinguished from confessions. For "such utterances are not usually subject to the same restrictions on admissibility as are confessions." *Stein* v. *New York,* 346 U. S. 156, 162-3, n. 5. See, also, *Ercoli* v. *United States,* 131 F. 2d 354, 356 (C. A. D. C.); *United States* v. *Kertess,* 139 F. 2d 923, 929 (C. A. 2), certiorari denied, 321 U. S. 795. And it is significant in the present connection that Greenleaf, credited by Wigmore as being the author of the American

[8] The rule has been explicitly rejected in Massachusetts. *Commonwealth* v. *Sanborn,* 116 Mass. 61; *Commonwealth* v. *Killion,* 194 Mass. 153. It appears to apply in England only to a few crimes. See 3 Russell, *Law of Crimes* (7th Eng., 1st Can. ed.) 2156; 9 Halsbury, *Laws of England* (2d ed.) 207, 183; 7 *Wigmore,* Evidence (3d ed.) § 2070.

rule requiring corroboration of confessions (7 Wigmore, *Evidence* (3d ed.), § 2071), specifically excepted admissions from the impact of the doctrine. 1 Greenleaf, *Evidence* (16th ed.), § 213. There is, of course, no occasion on which the admission of a specific fact—particularly where, as in this case, the fact by itself is not even an element of a crime—could serve on its own hook as a basis for conviction. It is strongly arguable, therefore, that the reason for the corroboration rule applied to confessions of guilt is absent in the case of admissions. The rule as applied to admissions would seem ordinarily to be at best unnecessary, at worst a source of confusion and error, as we think it has been in the present case.

Nevertheless, the corroboration requirement has been held applicable to extra-judicial admissions which fall short of being confessions. *Gulotta* v. *United States*, 113 F. 2d 683 (C. A. 8); *Gordnier* v. *United States*, 261 Fed. 910 (C. A. 9); and see *Warszower* v. *United States*, 312 U. S. 342, 347; *United States* v. *Kertess*, 139 F. 2d 923, 929 (C. A. 2), certiorari denied, 321 U. S. 795. If in this extension by analogy, the requirement remains the same for admissions as it is for confessions, we have no need to quarrel with it here. In the decision below, however, the requirement is said to demand independent proof of the specific fact disclosed by the admission. The result is, we submit, an erroneous expansion of the cor-

roboration rule. The error lies in a misconception of the nature of the "corroboration" required to sustain a confession.

2. The broad generalization is that a confession must be corroborated by independent evidence of the corpus delicti—*i. e.*, evidence *aliunde* the confession tending to show that the alleged crime has in fact been committed by someone. See, *e. g.*, *Daeche* v. *United States*, 250 Fed. 566, 571 (C. A. 2); *United States* v. *Angel*, 201 F. 2d 531, 533 (C. A. 7); *Evans* v. *United States*, 122 F. 2d 461, 465 (C. A. 10), certiorari denied, 314 U. S. 698; 127 A. L. R. 1130, 1134.[7] In a leading case explicating this generalization, Judge Learned Hand wrote (*Daeche* v. *United States*, *supra*, at 571):

> The corroboration must touch the corpus delicti in the sense of the injury against whose occurrence the law is directed * * *. Whether it must be enough to establish the fact independently and without the confession is not quite settled. Not only does

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[7] Even this generalization is not unquestioned. Wigmore, generally critical of the corroboration rule, reports with approval, citing cases: "In a few jurisdictions, the rule is properly not limited to evidence concerning the 'corpus delicti'; *i. e.* the corroborating facts may be of *any sort whatever*, provided only that they tend to produce a confidence in the truth of the confession * * *." 7 Wigmore, *Evidence* (3d ed.), p. 396; and see 20 Am. Jur. 1092–3. "But in most jurisdictions the stricter form of rule is taken, and the evidence must concern the 'corpus delicti' * * *." Wigmore, *supra*, p. 397. At least in the instant case, there is no need to quarrel with "the stricter form of rule."

> this seem to have been supposed in some cases, but that the jury must be satisfied beyond a reasonable doubt of the corpus delicti without using the confessions, before they may consider the confessions at all. * * * But such is not the more general rule, which we are free to follow, and under which any corroborating circumstances will serve which in the judge's opinion go to fortify the truth of the confession. Independently they need not establish the truth of the corpus delicti at all, neither beyond a reasonable doubt nor by a preponderance of proof.

This formulation of the requirement, cited by Wigmore (vol. 7, p. 397, n. 4) as illustrating the "stricter" rule, has found general acceptance in the federal and state courts. As in the *Daeche* case itself, where the corroborating evidence taken alone "would not establish the conspiracy" of which the defendant had been convicted (259 Fed. at 572), a majority of the courts have held it unnecessary that such evidence alone be sufficient to prove the corpus delicti or that it touch all elements of the corpus delicti:

> * * * The rule does not require that the independent evidence of corpus delicti shall be so full and complete as to establish unaided the commission of a crime. It is sufficient if the extrinsic circumstances, taken in connection with the defendant's admission, satisfy the jury of the defendant's guilt beyond a reasonable doubt.

[*Jordan* v. *United States*, 60 F. 2d 4, 5 (C. A. 4), certiorari denied, 287 U. S. 633.]

See, also, *Forlini* v. *United States*, 12 F. 2d 631, 634 (C. A. 2); *Ryan* v. *United States*, 99 F. 2d 864, 869 (C. A. 8), certiorari denied, 306 U. S. 635; *Oldstein* v. *United States*, 99 F. 2d 305, 306 (C. A. 10); *United States* v. *Angel*, 201 F. 2d 531, 533 (C. A. 7); *Evans* v. *United States*, 122 F. 2d 461, 465 (C. A. 10), certiorari denied, 314 U. S. 698; *Gulotta* v. *United States*, 113 F. 2d 683, 685–6 (C. A. 8); *Vogt* v. *United States*, 156 F. 2d 308, 310–11 (C. A. 5); *Bell* v. *United States*, 185 F. 2d 302, 309 (C. A. 4), certiorari denied, 340 U. S. 930; *Davena* v. *United States*, 198 F. 2d 230, 231 (C. A. 9), certiorari denied, 344 U. S. 878; 20 Am. Jur. 1086; 127 A. L. R. 1130, 1136.

A seemingly more stringent version of the rule has been stated by the Court of Appeals for the District of Columbia Circuit. In *Forte* v. *United States*, 94 F. 2d 236, affirmed on other issues certified to this Court, 302 U. S. 220, that court concluded that there must be, "independent of the confession, substantial evidence of the *corpus delicti and the whole thereof*" (p. 240; emphasis added), apparently regarding this conclusion as being in accord with Judge Hand's opinion in *Daeche* v. *United States, supra*. See 94 F. 2d at 242–3. The Second Circuit, for its part, has twice indicated, in opinions in which Judge Hand joined, that its decision in *Daeche* does not go

so far as *Forte* v. *United States*. *United States* v. *Warszower*, 113 F. 2d 100, 102, affirmed, 312 U. S. 342; *United States* v. *Kertess*, 139 F. 2d 923, 929, certiorari denied, 321 U. S. 795.

If it mattered here, we would urge that this Court adopt the version of the overwhelming majority, as represented by *Daeche*, rather than the apparently more extreme formula laid down in *Forte*. We would argue particularly that the requirement in *Forte* of independent proof, apart from the confession, of "the whole" of the corpus delicti carries to technical excess the principle that a confession shown to be voluntary must nevertheless be sufficiently corroborated to insure its reliability. For the problem it must be remembered, is to avoid convictions based upon untrue confessions, not to pay homage to the concept of the corpus delicti. And a long legal history in most of the jurisdictions which have considered the problem makes clear that the objective may be served without rigid insistence in every case that there be evidence of every element of the corpus delicti independent of a confession.

There is, however, no need in the present case to choose between the relatively flexible majority rule as stated in *Daeche* and the narrower statement in *Forte*. It is sufficient for our purposes that *the most* any of the cases requires to corroborate a confession is independent evidence of some or all the elements of the corpus delicti. And even under *Forte* such independent evidence

need not establish the corpus delicti beyond a reasonable doubt, or even by a preponderance of proof; it is enough that "this evidence and the confession are together convincing beyond a reasonable doubt of the commission of the crime and of the defendant's connection therewith." 94 F. 2d at 240; see pp. 23–25, *supra*.[8] We emphasize, then, that "corroboration" within the rule now at issue means no more than evidence tending in some degree to prove the corpus delicti. For it is this settled meaning of "corroboration" which the decision below misconstrues.

3. The corroboration requirement in this case arises with respect to an admission of a specific fact—respondent's cash on hand at the starting-point—rather than a confession of guilt.[9] As we have indicated (*supra*, pp. 21–22), there is room to question whether the requirement should apply at all in the case of an admission. Passing this, however, it has certainly never been suggested that the rule should be more onerous for an admission than it is for a confession. Yet this is

[8] Like the rest of the prosecution's case, the corpus delicti may of course be proved by circumstantial evidence. *Perovich* v. *United States*, 205 U. S. 86, 91; *United States* v. *Johnson*, 319 U. S. 503.

[9] It will be recalled that there were in evidence confessions of guilt by respondent as well as his admission that he had $500 in cash at the starting-point. See p. 10, *supra*. However, it is clear from the opinion below that the only source of difficulty is the admission as to cash on hand: as to every other detail, the court found ample corroboration. See R. 218.

precisely the result accomplished by the decision below. For the court found insufficient corroboration in proof tending strongly, if not beyond a reasonable doubt, to establish the corpus delicti, and demanded in addition independent proof of the specific fact revealed by respondent's admission.

This specific fact—the amount of cash in respondent's possession at the starting-point of the net-worth computations—is obviously not in itself an element of the corpus delicti of attempted tax evasion. The corpus delicti here may be defined as consisting of (1) the omission of taxable net income from reported net income, or an understatement of net income, and (2) willful intent to evade tax. *United States* v. *Potson*, 171 F. 2d 495, 499 (C. A. 7). The amounts of cash in the taxpayer's hands at the beginning and end of the taxable year are, of course, relevant in proving an increase in net worth, which is in turn relevant to the ultimate fact of understatement of net income. While, as with any other offense, there may be variations in defining the corpus delicti here, there is no conceivable definition which would include as an element the amount of cash in a defendant's pocket at any given time. It is only with the addition of numerous other details (admittedly established in this case; see R. 218 and pp. 33–36, *infra*) which serve finally to prove net worth at

the beginning and end of the taxable year—plus other circumstances refuting the possibility of non-income acquisitions—that the element of understatement of income appears.

To require, as the decision below requires, independent proof of the specific fact established by the admission is to hold that admissions may almost never be used except when other evidence is sufficient to establish the defendant's guilt beyond a reasonable doubt. This amounts, in other words, to the fallacious conclusion that admissions are "admissible merely as cumulative, or as corroborative of the other evidence." *United States* v. *Kertess*, 139 F. 2d 923, 929 (C. A. 2), certiorari denied, 321 U. S. 795. No such paralysis is imposed by the rule requiring corroboration of confessions. There is no justification for its imposition when the rule is extended by analogy to admissions.

Where a confession is to be corroborated by independent evidence of the corpus delicti, the rule assumes in every instance that the corroboration need not extend to independent proof of the critical fact that the accused is the person who committed the offense. For proof of the corpus delicti is proof merely that the "injury against whose occurrence the law is directed" has been committed by someone; it does not include identification of the guilty party. *Daeche* v. *United States, supra,* at 571; *Forte* v. *United States, supra,* at 243–244; *United*

States v. *Di Orio*, 150 F. 2d 938, 939 (C. A. 3), certiorari denied, 326 U. S. 771; 7 Wigmore, *Evidence* (3d ed.), § 2072. Similarly, since under the most stringent view independent evidence need not establish the corpus delicti beyond a reasonable doubt or even by a preponderance of proof (*supra*, pp. 23–25, 26–27), the rule clearly assumes that the confession itself may supply necessary facts though such facts are not specifically corroborated.

In short, a confession may serve alone to establish a specific fact, even a fact of critical importance to the ultimate demonstration of the defendant's guilt, without independent proof of this fact, so long as there is independent proof of the corpus delicti. As to the specific fact thus established, the confession amounts, of course, to an admission. We think it plainly follows that the court below, by focussing upon the admission of a specific fact and overlooking the origin and meaning of the corroboration rule, has distorted the rule in requiring independent proof of the fact established by the admission.

Our argument does not mean, of course, that an admission of a fact could never require corroboration in the form of independent evidence of the same fact. For example, if in a tax evasion case, the Government proved defendant's bald admission that he had underreported his net income, the corroboration rule would seem to call for independ-

ent evidence of such underreporting. For this "fact", critical and ultimate in nature (and compounded of a number of subsidiary facts varying with the circumstances of each case), is, as we have noted (*supra*, p. 28), an element of the corpus delicti. We urge only that as to a subsidiary fact like the one involved here (not in itself an element of the corpus delicti), an admission is enough to establish it. Necessarily, as we show to be true in this case (*infra*, pp. 33–36), such a subsidiary fact must be coupled with others to prove the corpus delicti. And these other subsidiary facts, for the very reason that they are independent proof of the corpus delicti, corroborate the admission in the sense the rule requires.

II

THE INDEPENDENT EVIDENCE ESTABLISHED THE CORPUS DELICTI TO THE EXTENT NECESSARY TO CORROBORATE RESPONDENT'S ADMISSION

The court below took as a major premise the proposition that in the absence of "such a starting item as, say, cash on hand the remainder of the [net-worth] statement proves nothing." (R. 218.)[10]

[10] It is interesting in this connection that the court cited *Bryan* v. *United States*, 175 F. 2d 223, 226 (C. A. 5), affirmed on other grounds, 338 U. S. 552 (R. 218, n. 1), in support of its observation that the prosecution must prove "each pertinent starting item of the net worth statements to a reasonable certainty." In *Bryan*, finding the conviction invalid for lack of sufficiently definite proof of defendant's net worth at the starting-point of the computations, the

A moment's reflection makes clear that the court could not have meant by this that without the item of cash on hand, the rest of the record contained no "proof" (in the sense of evidence) of anything. Indeed, on the same page of its opinion the court had acknowledged that all other items in the net-worth statements were established by evidence which afforded no grounds for dispute. So the court could only have meant that, excluding the cash-on-hand item, the Government had not *completely* proved its case—*i. e.*, had not adduced sufficient evidence to warrant the jury's finding of guilt beyond a reasonable doubt. Even this conclusion, we believe, would be open to serious doubt if it were necessary to question it here. But, here again, the significant point is the court's misconception of the amount and character of evidence required to corroborate respondent's admission. When this requirement is correctly understood, it becomes plain that the independent evidence provided ample corroboration, that respondent's admission was therefore properly submitted to the jury, and that the evidence as a whole decisively justified the judgment of conviction. Cf. *Bell* v.

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court twice indicated that this deficiency could have been supplied had there been admissions by the defendant. Pp. 225 and 227. Here, where defendant's admissions fastened securely the last link that could possibly be required for the Government's detailed chain of proof, we are told that the admissions may not be used.

United States, 185 F. 2d 302 (C. A. 4), certiorari denied, 340 U. S. 930.[11]

As we have shown in Point I, the evidence corroborating a confession or admission must tend to prove the corpus delecti, but need not establish it beyond a reasonable doubt or even by a preponderance of proof. It is readily demonstrable that the independent evidence in this case at least met the test.

Leaving aside the disputed item of cash on hand (the amount of which was shown as constant, except in the last year, during the period covered by the computations), there was uncontroverted evidence of substantial increases in respondent's other assets—cash in banks, savings bonds, merchandise inventory, furniture and fixtures, coin machines, automobiles, land and buildings. In addition, there was undisputed testimony showing expenditures by respondent which were neither reflected in visible assets nor deductible for income-tax purposes. The foregoing figures revealed net-worth increases plus non-deductible expenditures aggregating $24,855.49 in 1946, $11,056.82 in 1947, $6,874.43 in 1948, and $20,206.73 in 1949.[12] See Ex. B, *infra*,

[11] As noted in our petition for a writ of certiorari (pp. 8-9), the decision below is in conflict with the Fourth Circuit's decision in the *Bell* case.

[12] Minor inaccuracies in those figures, to which we have referred above (footnote 3, p. 6), were explained during the testimony of the revenue agents and are clearly too insignificant to affect the issues.

p. 41. In striking contrast with these figures, respondent's tax returns reported net income of $3,836.68 for 1946, $3,663.93 for 1947, $3,590.73 for 1948, and $5,683.80 for 1949. These discrepancies—while we have no need to claim that they could by themselves have warranted conviction—supplied substantial evidence from which the jury could infer that respondent had had unreported income. See *United States* v. *Johnson*, 319 U. S. 503, 517; *United States* v. *Link*, 202 F. 2d 592, 593 (C. A. 3).

The item of cash on hand at the starting-point is useful and important, of course, to negate the possibility that the unexplained increases in net worth and expenditures during the prosecution years may be accounted for by an undiscovered prior accumulation. But, again excluding respondent's admissions that no such explanation was available to him, there was considerable evidence tending to establish this point. The Government carefully proved that respondent had been a man of markedly limited means over a considerable period preceding the years which were important in this case. He had worked as a fry cook and a dishwasher until 1939, earning approximately eight dollars a week from 1933 to 1935. His small savings were consumed by the depression. His tax returns for the years 1941 to 1945 (the first year covered by the indictment was 1946) revealed a modest income,

even for the period 1942–1945 which he described as his "best years" (R. 161). In the last of these years, his income reached a high of $7,328.56. *Supra,* pp. 4–6.

Having proved these historical details, the Government's proof then showed, still excluding cash on hand, that respondent's net worth on December 31, 1945, was $25,555.06. *Supra,* p. 7. This figure, given respondent's pennilessness a decade earlier and his record of relatively meager earnings in the years between, is remarkably high. A jury would certainly have been justified in inferring that, however severely frugal he had been, respondent had not accumulated any considerable amount of additional assets in the form of undiscovered cash on hand. The inference would have been fortified by the fact that in 1940 and 1942 respondent had made withdrawals from his interest-bearing savings account (Ex. 7; R. 41), a step hardly consistent with the possession of a great hoard of idle cash. See *Barcott* v. *United States,* 169 F. 2d 929, 932 (C. A. 9), certiorari denied, 336 U. S. 912.[13] It was

[13] Still further support for the inference was supplied by the fact that respondent made frequent and fairly regular bank deposits during the period from October 1945 through 1949. *Supra,* p. 7. It has been noted that such activity is some indication that the funds deposited, increasing visible net worth, derive from current income rather than from a prior accumulation of cash held in idle storage. See *Gleckman* v. *United States,* 80 F. 2d 394, 399 (C. A. 8), certiorari denied, 297 U. S. 709; *Malone* v. *United States,* 94 F. 2d 281, 287 (C. A. 7), certiorari denied, 304 U. S. 562.

plainly reasonable, we submit, even without respondent's clinching admissions, to conclude that the total of more than $45,000 in respondent's increased net worth and non-deductible expenditures for the period 1946–1949, over and above reported income, represented unreported income rather than a bundle of cash he had on hand at the outset of the period.

Of course, in practically every case of this kind, the sizeable cache of hidden treasure suddenly disclosed during the prosecution years is an obvious explanation to be attempted by the defendant. The courts of appeals, including the court below, have repeatedly made it clear that where convincing evidence belies such a possibility, "argumentative speculations" that it may nevertheless exist will not serve to overthrow a jury's conviction to the contrary. *Gariepy* v. *United States*, 189 F. 2d 459, 462 (C. A. 6); *Remmer* v. *United States*, 205 F. 2d 277, 287 (C. A. 9), vacated and remanded on other grounds, 347 U. S. 227; *Schuermann* v. *United States*, 174 F. 2d 397, 399 (C. A. 8), certiorari denied, 338 U. S. 831; *Sasser* v. *United States*, 208 F. 2d 535, 538–539 (C. A. 5). To hold otherwise "would be tantamount to holding that skilful concealment is an invincible barrier to proof." *United States* v. *Johnson*, 319 U. S. 503, 518. It would ignore, moreover, the "general principle * * * that it is not incumbent on the

prosecution to adduce positive evidence to support a negative averment the truth of which is fairly indicated by established circumstances and which if untrue could be readily disproved by the production of documents or other evidence probably within the defendant's possession or control." *Rossi* v. *United States*, 289 U. S. 89, 91–92; *United States* v. *Fleischman*, 339 U. S. 349, 360–361; *Morrison* v. *California*, 291 U. S. 82, 88–91; *Casey* v. *United States*, 276 U. S. 413, 418; *Yee Hem* v. *United States*, 268 U. S. 178, 185; *Wilson* v. *United States*, 162 U. S. 613, 619.

We re-emphasize, finally, that the independent proof summarized in the preceding paragraphs was not required to be sufficient in itself to refute the possibility that the increases in respondent's net worth were explainable as representing only a towering pile of cash he had on hand at the beginning of 1946. If there were such a necessity, we think it would be met.[14] But the Government introduced respondent's own admission that he had only $500 in cash on hand at the critical time, and the sole problem is whether this was sufficiently corroborated to be usable. On this crucial point, forgetting for a moment our technical concern with the corpus delicti and referring simply to the kind of commonsense judgment which might after all serve

[14] It would be pertinent in this connection that the Government is not required to prove the exact amount of unreported income. *United States* v. *Johnson*, 319 U. S. 503, 517.

best in every case of this kind, it is apparent that respondent's admission tellingly confirmed the fact as it would probably have been inferred to be anyhow. The fact that respondent had, in addition to his more than $25,000 in other assets at the end of 1945, only this relatively small amount of cash on hand accorded precisely with all the other circumstances. The admission served, in short, merely to lay finally to rest an exculpatory suggestion which the other facts in evidence had already shown to be highly incredible.

If, as we think has been demonstrated, respondent's admission as to cash on hand was amply corroborated in the only sense the law requires, the single basis for the reversal of his conviction by the court below disappears. And there is no other ground for the reversal. The sufficiency of the evidence as a whole—which, except for the corroboration of cash on hand, was not questioned by the court below—is clear beyond question. Indeed, it includes respondent's confessions of guilt (*supra*, p. 10), the validity of which is plain once the single difficulty as to cash on hand is erased. These, together with the other evidence we have summarized, leave no doubt that the jury and the trial court were right in finding respondent guilty.[15]

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[15] We should note, finally, that respondent's testimony at the trial as to his cash on hand at the starting-point, though it contradicted both his admissions and his testimony at an earlier trial, would itself suffice to support the verdict and

CONCLUSION

It is respectfully submitted that the judgment of the court below, reversing respondent's conviction, should be reversed.

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AUGUST 1954.

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the sentence. He stated at the trial that he had had $16,000 or $17,000 on hand on December 31, 1945, and that he spent this for new machines in 1946 and the early part of 1947. (R. 164–165, 181–182, 193–194.) Since the amount of unreported income shown by the Government's proof was over $21,000 for 1946 and $7,000 for 1947 (*supra*, p. 10), the most respondent's own testimony could have shown, taking it in its aspect most favorable to the defense, was that he had not evaded taxes for 1947. The Court of Appeals erred in concluding (R. 219) that the jury would also have had to acquit for the year 1948 had they believed this testimony. For part of this testimony was that this supply of cash had been spent by early 1947. Moreover, even believing this whole unlikely story of cash on hand, the jury could well have found respondent guilty for all four years. Since he claimed the money was spent in 1946 and the early part of 1947, it could readily have been inferred that the amount spent in 1947 was insufficient to account for the more than $7,000 in unreported income shown for the latter year by the Government's computations. Consequently, on respondent's

own testimony, which of course presents no problem of corroboration, there was sufficient evidence to take all four counts to the jury.

The fact remains that the Court of Appeals was probably correct in concluding (R. 219) that the jury disbelieved respondent's testimony altogether. The jury was right; the testimony was incredible. What made it incredible returns us to our main argument; respondent's earlier admissions, corroborated by and fitting convincingly with the independent evidence, refuted beyond doubt the assertion that he had had on December 31, 1945, any considerable sum in cash on hand.

APPENDIX

RESPONDENT'S EXHIBIT B

EDWARD B. AND RAFAELA CALDERON

Item No.		NET WORTH							Remarks
		December 31, 1943	December 31, 1944	December 31, 1945	December 31, 1946	December 31, 1947	December 31, 1948	December 31, 1949	
	ASSETS								
(A)	Cash on Hand	$500.00	$500.00	$500.00	$500.00	$500.00	$500.00	$1,971.50	
(B)	Cash in Banks:								
	Bank of Douglas "Checking"	959.91	1,494.33	988.91	1,879.09	1,713.78	388.36	891.59	Mr. & Mrs. E. B. Calderon, Checking Acct.
	Bank of Douglas "Checking"	0	0	96.96	847.52	270.07	162.32	13.60	Coronado Cafe, Checking Acct.
	Bank of Douglas "Savings"	3,039.87	3,070.33	4,102.77	6,979.44	4,086.51	6,637.07	18,034.24	Edw. B. & Raisela Calderon, Savings Acct.
	Valley National Bank, "Savings"	0	0	0	0	0	762.08	1,776.92	Edw. B. & Rafaela Calderon, Savings Acct.
(C)	Bonds, U. S. Treasury	1,975.00	5,181.25	5,181.25	5,181.25	5,181.25	5,181.25	6,181.25	Series E and G at cost.
(D)	Merchandise Inventory	38.25	75.00	1,076.60	1,847.91	3,820.08	3,090.50	4,231.96	(Cost).
(E)	Furniture & Fixtures	0	0	944.00	1,394.00	[3] 2,175.09	2,148.45	2,148.45	
(F)	Equipment Machines	4,493.48	6,888.51	8,071.00	24,055.63	31,945.95	40,224.10	43,626.44	
(G)	Automobiles	1,855.00	1,855.00	1,855.00	1,855.00	1,855.00	1,855.00	2,519.21	
(H)	Land	1,400.00	1,400.00	2,300.00	2,600.00	3,100.00	3,100.00	3,300.00	
(I)	Buildings	5,800.00	5,800.00	8,140.00	10,943.49	18,643.49	18,843.49	19,143.49	
	Total assets	20,061.51	26,264.42	32,956.49	58,075.34	[3] 73,291.22	82,692.62	105,938.65	
	LIABILITIES								
(J)	Accounts Payable	0	0	0	1,027.44	2,882.46	1,625.02	300.00	
(K)	Reserve:								
	Depreciation								
	Furniture & Fixtures	0	0	108.07	239.97	463.96	727.76	995.23	
	Equipment Machines	2,153.83	3,531.54	5,145.72	7,364.12	12,274.96	18,302.33	25,660.46	
	Automobiles	280.10	355.60	431.10	506.60	581.10	656.60	94.61	
	Buildings	650.00	894.00	1,221.54	1,624.66	2,284.08	3,011.82	3,772.90	
	Total liabilities	3,083.93	4,781.14	6,906.43	10,762.79	18,456.56	24,323.53	30,823.20	
	Net Worth	16,977.58	21,483.28	26,050.06	47,312.55	[3] 54,834.66	58,369.09	75,115.45	
	Increase Net Worth		4,505.72	4,566.78	21,262.49	[4] 7,522.11	[5] 3,534.43	16,746.36	
(L)	Living Expense		3,000.00	3,000.00	3,000.00	3,000.00	3,000.00	3,000.00	
	Total		7,505.72	7,565.68	24,262.49	[4] 10,522.11	[5] 6,534.43	19,746.36	
	Plus:								
(M)	Insurance Premium Paid						200.00	172.69	
(N)	Automobile Purchased for Father			200.00					
(O)	Expended for Vacations				400.00	543.71			
(P)	Expenses, Doctors & Hospitals		167.12	106.50	7.00	91.00	40.00	273.00	
(Q)	State of Arizona, Income Tax Paid		3.00	31.78	0	0	0	12.68	
(R)	Federal Income Tax Paid		861.36	164.64	186.00	0	0	0	
	Net taxable income		8,537.20	8,069.60	24,855.49	[5] 11,156.82	[6] 6,774.43	20,206.73	

[1] The figures shown above are the same as those originally shown in a typewritten copy submitted as defendant's Exhibit B. In this and each instance hereafter mentioned, the figures shown were

[4] Adjusted to $7,422.11

[5] Adjusted to $3,634.43

(F)	Equipment Machines	4,493.48	6,868.51	8,071.00	24,055.63	31,945.95	40,224.10	45,626.44
(G)	Automobiles	1,855.00	1,855.00	1,855.00	1,855.00	1,855.00	1,855.00	2,519.21
(H)	Land	1,400.00	1,400.00	2,300.00	2,600.00	3,100.00	3,100.00	3,300.00
(I)	Buildings	5,891.00	5,830.00	8,140.00	10,943.49	18,643.49	18,643.49	19,143.49
	Total assets	20,061.51	26,264.42	32,956.49	58,075.34	[3] 73,291.22	82,692.62	105,938.65
	LIABILITIES							
(J)	Accounts Payable	0	0	0	1,027.44	2,882.46	1,625.02	300.00
(K)	Reserve:							
	Depreciation							
	Furniture & Fixtures	0	0	108.07	239.97	483.96	727.76	993.23
	Equipment Machines	2,153.85	3,531.54	5,145.72	7,364.12	12,274.96	18,302.33	25,660.46
	Automobiles	280.10	358.60	431.10	508.60	581.10	656.60	94.61
	Buildings	650.00	894.00	1,221.54	1,624.66	2,254.08	3,011.82	3,772.90
	Total liabilities	3,083.95	4,781.14	6,906.43	10,762.79	18,456.56	24,323.53	30,823.20
	Net Worth	16,977.56	21,483.28	26,050.06	47,312.55	[5] 54,834.66	58,369.09	75,115.45
	Increase Net Worth		4,505.72	4,566.78	21,262.49	[6] 7,522.11	[7] 3,534.43	16,746.36
(L)	Living Expense		3,000.00	3,000.00	3,000.00	3,000.00	3,000.00	3,000.00
	Total		7,505.72	7,566.78	24,262.49	[8] 10,522.11	[9] 6,534.43	19,746.36
	Plus:							
(M)	Insurance Premium Paid						200.00	172.69
(N)	Automobile Purchased for Father			200.00				
(O)	Expended for Vacations				400.00	543.71		
(P)	Expenses, Doctors & Hospitals		167.12	106.50	7.00	91.00	40.00	273.00
(Q)	State of Arizona, Income Tax Paid		3.06	31.78	0	0	0	12.68
(R)	Federal Income Tax Paid		891.36	164.64	186.00	0	0	0
	Net taxable income		8,537.26	8,069.60	24,855.49	[10] 11,156.82	[11] 6,774.43	20,206.73

[1] The figures shown above are the same as those originally shown in a typewritten copy admitted as defendant's Exhibit B. In this and each instance hereafter mentioned, the figures shown were corrected in ink and the initials E. C. placed next to the adjustment in the left margin. In this particular instance the figure shown was adjusted to $2,075.09.

[2] Adjusted to $73,191.22.

[3] Adjusted to $54,734.66.

[4] Adjusted to $7,422.11.

[5] Adjusted to $3,634.43.

[6] Adjusted to $10,422.11.

[7] Adjusted to $6,534.43.

[8] Adjusted to $11,056.22.

[9] Adjusted to $6,874.43.

I, Edward Calderon, after being duly sworn upon oath, and after having been advised of my constitutional rights, depose and say that I have read the above schedule and that it discloses my true net worth on the dates indicated, together with my living expenses for each of the above-stated years.

(S) Edward B. Calderon
EDWARD B. CALDERON.

Subscribed and sworn to before me this 2nd day of August, 1950, at Douglas, Arizona.

(S) LLOYD M. TUCKER,
Special Agent.

Witness:

(S) R. E. WEBB,
Deputy Collector.

U. S. GOVERNMENT PRINTING OFFICE: 1954